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13 Attorneys for Defendant ARISTA NETWORKS, INC.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN JOSE DIVISION

17 CISCO SYSTEMS, INC.,

18 Plaintiff,

19 v.

20 ARISTA NETWORKS, INC.,

21 Defendant.

Case No. 5:14-cv-05344-BLF (NC)

**DECLARATION OF CATE M. ELSTEN
IN SUPPORT OF ARISTA NETWORKS,
INC.'S OPPOSITION TO MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Date: August 4, 2016
Time: 9:00 a.m.
Dept.: Courtroom 3 - 5th Floor
Judge: Hon. Beth Labson Freeman

Date Filed: December 5, 2014

Trial Date: November 21, 2016

1 I, Cate M. Elsten, declare as follows:

2 1. I am a Managing Director for Ocean Tomo, a firm that provides financing, asset
3 and risk management, merger and acquisition consulting, expert services in litigation and
4 valuation of intellectual capital. I have been a consultant on intellectual property and corporate
5 finance matters since 1990.

6 2. Unless otherwise stated, the facts I set forth in this declaration are based on my
7 personal knowledge and expertise, or knowledge I obtained through my review of evidence
8 (including documents and deposition testimony) produced in this litigation and provided to me for
9 consideration, publicly available materials, or other investigation for purposes of my providing an
10 expert opinion in this matter.

11 3. I submit this declaration in support of Arista's Opposition to Cisco's Motion for
12 Summary Judgment. If called to testify as a witness, I could and would testify competently to
13 such facts, and my expert opinions set forth in the exhibits to this declaration, under oath.

14 4. I have been retained to provide my expert opinions on issues related to Cisco's
15 allegations of copyright infringement in this litigation, including but not limited to the fourth
16 statutory fair-use factor and the damages that should be awarded to Cisco should Arista be found
17 liable of infringement.

18 5. Attached hereto as Exhibit 1 is a true and correct copy of the Market Harm expert
19 report ("Elsten Market Harm Report") I prepared in this action, which I signed on June 3, 2016,
20 and is a true and correct expression of my opinions based on the facts I currently know. The
21 Elsten Market Harm Report also provides a more detailed description of my qualifications and
22 experience, and the materials I considered in formulating my opinions.

23 6. Attached hereto as Exhibit 2 is a true and correct copy of the damages rebuttal
24 report ("Elsten Damages Report") I prepared in this action, which I signed on July 13, 2016, and
25 is a true and correct expression of my opinions based on the facts I currently know. The Elsten
26 Damages Report also provides a more detailed description of my qualifications and experience,

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1 and the materials I considered in formulating my opinions.
2

3 Executed July 14, 2016, at 101 Montgomery Street #2100, San Francisco, CA 94104.

4 I declare under penalty of perjury under the laws of the United States of America that the
5 foregoing is true and correct.
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CATE M. ELSTEN